



April 30, 2018

To: AgNOI@waterboards.ca.gov

Re: 2020 Irrigated Lands Regulatory Program CEQA Scoping

Dear Ms. Keeling:

Thank you for the opportunity to comment on the California Environmental Quality Act (CEQA) Initial Study for Agricultural Order for Discharges from Irrigated Lands, circulated for public review and comment by the Central Coast Regional Water Quality Control Board on February 16, 2018. Please accept these comments submitted on behalf of the Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties, Grower-Shipper Association of Central California, Western Growers, San Luis Obispo County Farm Bureau, California Strawberry Commission, and Central Coast Groundwater Coalition.

Agriculture is a major source of income and employment on the Central Coast and the State, as per the Government Code 51220(a)-(f) (aka Williamson Act) which is referenced in the CEQA Initial Study. For example, agriculture is the #1 Economic Driver in Monterey County, accounting for 18.5% of all direct economic output and directly provides 55,550 jobs and indirectly provides another 17,799 jobs (Economic Contributions of Monterey County Agriculture, 2014). Additionally, in Santa Barbara County "agriculture is the number one contributor to the county's economy and through the multiplier effect contributes a total of \$2.8 billion to the local economy and provides 25,370 jobs" (2016 Crop Report). Furthermore, San Luis Obispo County agriculture contributes a total of \$1.87 billion to the local economy and provides 20,645 jobs in the San Luis Obispo County economy (Economic Contributions of San Luis Obispo County Agriculture, 2012). **The continued economic vitality of agriculture is paramount to the economy, employment, and social structure of the Central Coast.**

Agriculture is facing unprecedented challenges that have increased exponentially in the past three years. In recent years, the cost to farm has dramatically increased due to significant changes to wage and hour requirements, rising land rents, ongoing labor shortages, proliferating pests and diseases, expanding agrichemical material application restrictions, and increasing regulatory compliance cost and complexities. At the same time, competition from other counties, states, and countries that require only a fraction of the regulatory compliance mandates continues to increase. **Central Coast farmers need the support and engagement of all stakeholders to remain competitive to provide the multitude of economic, social, and environmental benefits of local agriculture.** We request that the Regional Board include a robust analysis of the economic and social impacts of Agricultural Order 4.0 that may have potentially significant impacts on the physical environment in the Draft Environmental Impact Report.

OVERARCHING AND SPECIFIC CONCERNS

1. We question whether a **project or a programmatic EIR** is most appropriate for this particular situation, especially considering the regional and cumulative effects of the Irrigated Lands Regulatory Program (ILRP).
2. We recognize that CEQA focuses on the assessment of *actual conditions* and *present circumstances* as the **baseline**, which should be the focus of the assessment of impacts and proposed mitigation measures. Accordingly, the baseline established as of the NOP should specifically incorporate any water quality improvements that have been achieved since the first irrigated lands regulatory program was instituted on the Central Coast. There should be an effort to describe the environmental setting, including that which has occurred in the recent past that has been a positive influence on the environment. Examples of this include the fact that Preservation, Inc.'s data shows substantial downward trends in surface water loading and downward trends in stream flow from tailwater runoff.
3. Due to the unique circumstances of the Irrigated Lands Regulatory Program, **we do not find the use of the Appendix G sample checklist format to appropriately capture the potential direct and indirect impacts.** We instead encourage a more careful consideration of potential impacts that more closely matches the unique nature of the ILRP and “asks the right questions” to appropriately assess potential impacts.
4. **The EIR must consider a reasonable range of alternatives. Specifically, we would like to see an alternative that conforms with the precedential aspects of the Eastern San Joaquin Order (ESJ) without expanding the regulatory requirements of ESJ and prior Central Coast Regional Ag Orders. We also request that a General Waste Discharge Requirement (WDR) be analyzed.**
5. The Initial Study notes that consideration of the Sustainable Groundwater Management Act (SGMA) will be made. It's important to remember that the Act's requirements for SGMA plan submission goes into effect in 2020 and 2022. How will Agricultural Order 4.0 take SGMA plans into account that are being developed by local stakeholders and agencies at the same time that Agricultural Order 4.0 is under development? If the Regional Board's goal is to compliment both the spirit and requirements of SGMA, will the Regional Board's timeline prevent it from achieving that objective? Any requirements of Agricultural Order 4.0 should not appropriate the SGMA Agencies' authorities and requirements.
6. We urge the EIR to refrain from proposing alternatives and mitigation measures which are infeasible to implement. **Feasibility as contemplated by CEQA may include but is not limited to site suitability, economic viability, availability of infrastructure, general plan consistency, and other plans or regulatory limitations.** More specifically, we do not find methods such as eliminating irrigation and storm water discharge, treating irrigation discharge, planting cover crops, vegetative plantings and treatment systems, and avoiding winter nitrogen applications to be reasonably feasible in all circumstances, and they shouldn't be considered “silver bullets.” We are concerned that additional regulatory requirements would create insurmountable technical and financial obstacles and would compromise the value and long-term viability of agricultural lands.
7. Although the Water Board cannot *explicitly* mandate the method of compliance, we encourage the project or program being analyzed to refrain from requiring inappropriate mitigation measures or otherwise *effectively* mandating methods of compliance, including agricultural cessation. We continue to support **allowing farmers flexibility to efficiently move towards achieving our mutual goal of improving surface and groundwater quality.**
8. Although the ILRP would be region-wide, it is essential to be mindful of the impacts of the individual draft mitigation measures and cumulative draft mitigations measures on individual agricultural farms/ranches and operations. **An agricultural parcel cannot reasonably relocate.** The overwhelming majority of crops that can support the high cost of production in Region 3 are highly perishable crops; as such, planting decisions are often limited by proximity to cooling infrastructure and other essential agribusiness support infrastructure

such as employees and equipment. This factors into the feasibility of implementation of the ILRP project/program and other potential mitigation measures.

9. We do not agree that the project is **compatible with all applicable land use plans, policies, and regulations**. This includes County-based Economic and Agricultural General Plan Elements, including the goals and policies contained in the Santa Barbara County Comprehensive Plan Agricultural Element and Agricultural Element of the San Luis Obispo County General Plan. Certain requirements might also conflict with the U.S. Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA) Produce Safety Rule, especially related to vegetative treatments that could result in the reasonable probability that produce may become contaminated by wild animals.
10. The CEQA Initial Study states the purpose of the next Agricultural Order is to “improve water quality in irrigated agricultural areas and those areas in close proximity to irrigated agriculture.” During the CEQA Initial Study public workshops, the stated goal of the Ag Waiver 4.0 was “to improve water quality, protect public health, and protect aquatic habitat.” However, the last two Agricultural Orders did not state an intent, instead they stated: “This Order *regulates* discharges of waste from irrigated lands by requiring individuals subject to this Order to comply with the terms and conditions set forth herein to ensure that such discharges do not cause or contribute to the exceedance of any Regional, State, or Federal numeric or narrative water quality standard (hereafter referred to as exceedance of water quality standards) in waters of the State and of the United States.” **The purposes of the CEQA Analysis and the past Agricultural Orders do not appear to be aligned. This is critical when one considers the listed Foreseeable Methods of Compliance. There is a possibility that the listed methods of compliance, if implemented in their entirety would not achieve water quality standards for nutrients, sediment and/or pesticides or toxicity. This means that the CEQA analysis falls short of assessing the true impact of the proposed Order.**
11. Although it is not possible to make an informed statement without knowing the project/program being analyzed, we expect that it may be reasonable to expect direct and indirect impacts to aesthetics, air quality, greenhouse gas emissions, induction of growth, transportation/traffic, solid waste disposal, and mandatory findings of significance regarding direct and indirect substantial adverse impacts on human beings. For example, certain mitigation measures/regulatory requirements could result in the generation of additional plastic waste that might not be consistently recyclable. Another possibility is if certain plant protection materials are restricted under the proposed regulation, which could result in increased emissions due to the need for additional applications of materials that are less effective.
12. We do not find the precedential references to Santa Barbara County land use policies to be appropriate and request their removal. We further object to the reference to the Pesticide Action Network due to the lack of impartiality of the source and that the allegations occurred outside of Region 3.
13. We remain deeply concerned about policies and regulations that discourage, rather than incentivize, “pump and grow” groundwater remediation strategies. We are deeply concerned that the 2020 ILRP could create a disincentive to utilize groundwater high in nitrates, which would adversely impact long-term water quality.

Thank you for your careful consideration of these comments in the Draft EIR.

Sincerely,



Claire Wineman

President, Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties



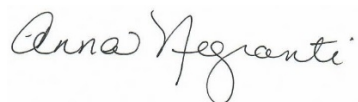
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